mutual company in the net and surplus assets, there are expressions in many of the cases which support the above decision. Thus, in *Schwarzwalder* v. *Tegen,* 58 N. J. Eq. 319, 326, 43 Atl. 587, it is said that the policy-holder is to be regarded as a member of the corporation with all the rights as such; in *Mayer* v. *Attorney-General,* 32 N. J. Eq. 815, 822, it is said that "the assets of a mutual company belong to its members, as in a stock company they belong to the stockholder"; in *Bangs* v. *Gray,* 12 N. Y. 477, 481, it is said that "the interest and profits which in other companies are paid to stockholders are saved to persons insuring in these mutual companies"; in *McKean* v. *Biddle et al.,* 181 Pa. St. 361, 362, 37 Atl. 528, it is said that the members of such a company are entitled to take part in its government and participate in any division of profits it might make; in *Berry v. Fire Ins. Company,* 94 Ia. 135, 140, 62 N. W. 681, it is said that "mutual companies have no stockholders within the ordinary meaning of that term, but they may have money and other property which is owned by its members subject to the right of the company to control and use it for corporate purposes." In many cases there is a provision either in the charter or the policies issued by the mutual company entitling policy-holders to a share in the surplus. As to the rights created by such provisions, see *Greeff* v. *Eq. Life Assur. Soc.,* 160 N. Y. 19, 54 N. E. 712, 46 L. R. A. 288, 73 Am. St. R. 659; *Everson* v. *Eq. Life Assur. Soc.,* 71 Fed. Rep. 570.

JUDGMENT—DIVORCE—TERRITORIAL JURISDICTION—LAND IN ANOTHER STATE. —Where a husband and wife are divorced by a Washington court having jurisdiction of the parties and the action, and land owned by the husband in Nebraska is decreed to the wife, *held,* that she has such a title to the land as will support an action to quiet title. *Fall* v. *Fall et al.* (1905), — Neb. —, 106 N. W. Rep. 412.

The court held that the provision of the U. S. Constitution requiring full faith and credit to be given in each state to the records and proceedings of every other state, compels the recognition of the decree, and while it is true that the courts of one state cannot adjudicate directly upon the title to lands in another state, yet since both of the parties were brought personally before the court, its decree establishing their equities in the land would be conclusive upon them and thus determine the title. *Dull* v. *Blackman,* 169 U. S. 243, 18 Sup. Ct. Rep. 333, 42 L. Ed. 733. Since real estate is governed by the law of its situs, the better rule would seem to be that although by means of its power over the person of a party a court of equity may compel him to act in relation to property not within its jurisdiction, its decree does not operate directly upon the property or affect the title, and can only be made effectual through the coercion of the party, as, for instance, by directing a deed to be executed. Therefore since in the principal case no action was ordered or taken in reference to the land, the courts of Nebraska would not be obliged to surrender jurisdiction over real estate in that state, exclusively subject to its laws and the jurisdiction of its courts, to the courts of any other state. STORY, CONFL. LAWS, Sec. 543; *Hart* v. *Sansom,* 110 U. S. 151; *Carpenter* v. *Strange,* 141 U. S. 87, 35 L. Ed. 640; *Bullock* v. *Bullock,* 52 N. J. Eq. 561, 30 Atl. Rep. 676, 27 L. R. A. 213, 46 Am. St. Rep. 528; *Gardner*

v. *Ogden,* 22 N. Y. 327. It is well settled that a decree of alimony is such a judgment as must be given full faith and credit in another state, but in enforcing the judgment the foreign state will use the means in use there and need not use the methods of enforcement provided by the court granting the decree. *Lynde* v. *Lynde,* 181 U. S. 183, 21 Sup. Ct. Rep. 555; *Bullock* v. *Bullock,* supra.

LICENSE—REVOCATION—ESTOPPEL—IRRIGATION DITCH.—Plaintiff alleged that defendants had entered on his land and constructed a ditch; that they had no other right than a license which had been revoked, notwithstanding which they had entered and repaired said ditch and threaten to continue to do so; and prayed that they be adjudged trespassers and enjoined from further use of the ditch or entry on plaintiff's land. The evidence showed that defendants constructed the ditch at a cost of $7,000 to carry water for irrigating their own and other lands. The court below found that a consideration was paid (which the court above found not supported by the evidence) and a right of way thus granted. The judgment for defendants was affirmed, though the grant was not made out; and this on the express ground that after an expenditure of $7,000 under the license estoppel rendered it irrevocable. *Stoner* v. *Zucker* (1906), — Cal. —, 83 Pac. Rep. 808.

The leading American case in accord with the principal case is *Rerick* v. *Kern,* 14 *Serg. & R.* (Pa.), 267, reported in 16 Am. Dec. 497, with a note in which many cases are collected and this decision is declared to be supported by the weight of authority since that time. To the same effect see *Garrett* v. *Bishop,* 27 Ore. 349, 41 Pac. 10. In other cases it has been held that the license is revocable and that the licensee's only remedy is an action to recover the money expended. *Nowlin Lumber Co.* v. *Wilson,* 119 Mich., 406, 78 N. W. 338; *Hathaway* v. *Yakima Water, Light & Power Co.,* 14 Wash. 469, 44 Pac. 896, 53 Am. St. Rep. 874; *Shipley* v. *Fink* (1905), — Md. —, 62 Atl. 360.

MALICIOUS PROSECUTION—DAMAGES—ADVICE OF COUNSEL—DISCHARGE OF PLAINTIFF.—This action for malicious prosecution was based on plaintiff's arrest on a charge of false pretenses, whereby he obtained property worth upwards of $2,000. *Davis* v. *McMillan et al.* (1905), — Mich. —, 105 N. W. Rep. 862.

It is *held,* Hooker, J., speaking for the court: (1) that plaintiff's judgment for $4,000 by way of damages, mostly for mortification and wounded feelings, is excessive; (2) to make advice of counsel a complete defense it is necessary that the advice be sought and acted upon in good faith, and that a full disclosure of all material facts be made. *Bliss* v. *Wyman et al.,* 7 Cal. 257; *Steed* v. *Knowles,* 79 Ala. 446; *Mesher* v. *Iddings,* 72 Ia. 553; (3) In an action for malicious prosecution, the discharge of the plaintiff has not in itself any tendency to show a want of probable cause, according to the better doctrine. The contrary view is expressed in *Nicholson* v. *Coghill,* 4 B. & C. 21,, which is the basis for *Secor* v. *Babcock,* 2 Johns. 203; *Johnson* v. *Martin,* 7 N. C. 248; *Williams* v. *Norwood,* 10 Tenn. 329; *Vinal* v. *Core,* 18 W. Va. 1, 42; *Plummer* v. *Gheen,* 10 N. C. 66; *Bostick* v. *Rutherford,* 11 N. C. 83;